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**MAR 02 2006**

**OFFICE OF PETITIONS**

In re Application of  
Thomas Mark Levergood et al.  
Application No. 09/005,479  
Filed: January 12, 1998  
Attorney Docket No. OMI95-01A

**ON PETITION**

This is a decision on the petition filed January 9, 2006 under 37 CFR 1.137 (b) to revive the above-identified application.

The petition is **GRANTED**.

In response to a Final Office Action mailed March 31, 2004, a Notice of Appeal was filed October 5, 2004 (certificate of mail date September 30, 2004).<sup>1</sup> The above-identified application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 1.17(c)) within the time period provided in 37 CFR 1.192(a). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed December 21, 2004, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.192(b) & 1.197(c). As no claim was allowed, the above-identified application became abandoned on December 6, 2004. See MPEP 1215.04.

The instant petition and this decision precede the mailing of the Notice of Abandonment.

Petitioner has submitted a Request for Continued Examination (RCE) and requests that the previously filed amendment be used as the submission required under 37 CFR 1.114.

The fees for the petition to revive (\$1500.00) and the RCE (\$790.00) have been applied. A request for a five month extension of time was also filed with the instant petition. However, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$2160.00 extension of time fee submitted with the petition on January 9, 2006, was subsequent to the maximum period obtainable for reply, this fee

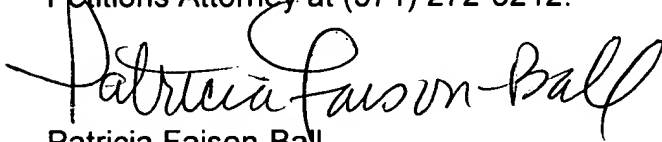
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<sup>1</sup>A two month extension of time request was filed September 3, 2004 and a one month extension of time was filed October 4, 2004.

is unnecessary and will be credited to counsel's deposit account no. 50-1432.

The request for continued examination (RCE) of this application under 37 CFR 1.114 is being forwarded to Technology Center 2145 for processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions